

§ 1000.243 What special provisions must be included in an AFA that contains a construction program?

An AFA that contains a construction program must address the requirements listed in this section.

(a) The AFA must specify how the Secretary and the Tribe/Consortium must ensure that proper health and safety standards are provided for in the implementation of the AFA, including but not limited to:

(1) The use of architects and engineers licensed to perform the type of construction involved in the AFA;

(2) Applicable Federal, state, local or Tribal building codes and applicable engineering standards, appropriate for the particular project; and

(3) Necessary inspections and testing by the Tribe.

(b) The AFA must comply with applicable Federal laws, program statutes and regulations.

(c) The AFA must specify the services to be provided, the work to be performed, and the responsibilities of the Tribe/Consortium and the Secretary under the AFA.

(d) The Secretary may require the Tribe/Consortium to provide brief progress reports and financial status reports. The parties may negotiate in the AFA the frequency, format and content of the reporting requirement. As negotiated, these reports may include:

(1) A narrative of the work accomplished;

(2) The percentage of the work completed;

(3) A report of funds expended during the reporting period; and

(4) The total funds expended for the project.

§ 1000.244 May the Secretary suspend construction activities under an AFA?

(a) The Secretary may require a Tribe/Consortium to suspend certain work under a construction portion of an AFA for up to 30 days only if:

(1) Site conditions adversely affect health and safety; or

(2) Work in progress or completed fails to substantially carry out the terms of the AFA without good cause.

(b) The Secretary may suspend only work directly related to the criteria specified in paragraph (a) of this section unless other reasons for suspension are specifically negotiated in the AFA.

(c) Unless the Secretary determines that a health and safety emergency requiring immediate action exists, before suspending work the Secretary must provide:

(1) A 5 working days written notice; and

(2) An opportunity for the Tribe/Consortium to correct the problem.

(d) The Tribe/Consortium must be compensated for reasonable costs due to any suspension of work that occurred through no fault of the Tribe/Consortium. Project funds will not be used for this purpose. However, if suspension occurs due to the action or inaction of the Tribe/Consortium, then project funds will be used to cover suspension related activities.

§ 1000.245 May a Tribe/Consortium continue work with construction funds remaining in an AFA at the end of the funding year?

Yes, any funds remaining in an AFA at the end of the funding year may be spent for construction under the terms of the AFA.

§ 1000.246 Must an AFA that contains a construction project or activity incorporate provisions of Federal construction standards?

No, the Secretary may provide information about Federal standards as early as possible in the construction process. If Tribal construction standards are consistent with or exceed applicable Federal standards, then the Secretary must accept the Indian Tribe/Consortium's proposed standards. The Secretary may accept commonly accepted industry construction standards.

§ 1000.247 May the Secretary require design provisions and other terms and conditions for construction programs or activities included in an AFA under section 403(c) of the Act?

Yes, the relevant bureau may provide to the Tribe/Consortium project design criteria and other terms and conditions